

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Moreland, Karren et al.	Art Unit:	:	3679
Serial No.	:	10/647,726	Examiner:	:	Ferguson, Michael P.
Filing Date	:	08/25/2003			
Title	:	Cam Lock for Track Systems			

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REASONS SUPPORTING PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

By accompanying papers, applicants appeal from the final Office Action dated July 17, 2007, in view of the Advisory Action dated December 31, 2007. Applicants identify the following clear errors in the final Office Action, including omission of essential elements needed for a *prima facie* anticipation rejection.

Claims 10-29 remain pending; amended claims 10 and 20 are independent claims. Applicants understand that all rejections and objections have been overcome after final except the art rejections discuss here.

All claims stand rejected under 35 U.S.C. §102(b) as being anticipated by either of two references, (1) Moreland (U.S. Patent 6,364,508), an earlier patent to the same inventor cited as prior art (referenced as "Moreland" herein), and (2) Onishi (U.S. Patent 6,588,711), and with respect to a few dependent claims not discussed here, obvious over the combination of those references with supporting references.

The invention now being claimed relates to a lock (claim 10), designed for use in securing a string of lights (for example) in a slotted-track system, and a track-and-lock combination (claim 20). In either case, the lock has a body, which is formed integrally with a neck (that can extend through the track's slot) leading to a finger-turnable handle. The body is wider in one direction than the other, such that (1) the body can fit through the slot into the track when the lock is inserted with the longer dimension oriented along the track's slot, and (2) the lock can press against the insides of the track when oriented with the longer dimension across the track, perpendicular to the slot.

The second condition is stated, in the language of all claims presently pending, as follows:

“(f) wherein the body is sized to fit loosely within the interior of the slotted track when the wider axis is parallel to the track and to fit snugly within the interior of the slotted track when the narrower axis is parallel to the track.”

Both claim 10 and claim 20 likewise recite the limitation: “wherein the body is sized ... to fit snugly within the interior of the slotted track when the narrower axis is parallel to the track” (emphasis added).

Applicants have insisted that neither reference, Moreland and Onishi, discloses a body “sized to fit snugly” within a slotted track in any orientation.

The examiner has disagreed, asserting that Moreland’s “crossbar 82” and Onishi’s “fastening nut 1” are both “bodies sized to fit snugly within the interior of the slotted track.” The examiner has interpreted the claim phrase “to fit snugly” as follows: “as broadly as reasonable to be constituted by a body which fits closely to the interior walls of the track.” *See, e.g.*, 12/31/07 Advisory Action.

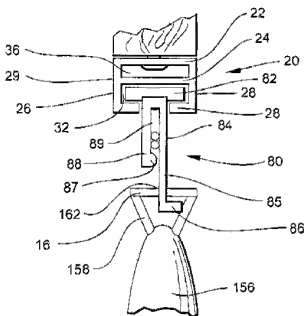
Even under the examiner’s interpretation of “snugly” as “fits closely to,” applicants respectfully submit that the final Office Action do not provide evidence or citations sufficient to show that the either reference discloses a body that “fits closely to the interior walls of the track.” Thus, the final Office Action fails to make a *prima facie* case of anticipation or obviousness.

The specification of this application states: “It is critical that the body 12 of the lock 10 according to the present invention have a length that is substantially equal to the width of the track system into which the lock 10 is to be used. This ensures that when used, the body 12 will be able to fit within the track system with the appropriate snug fit.” [Spec., p. 5, lines 12-15] The specification continues: “In use, a portion of an item to be movably secured to the track system is placed in the track system. The lock 10 according to the present invention is inserted into the track, adjacent to the item to be secured. The body 12 is, initially, aligned along the length of the track system. The user grasps the handle portion 14 and rotates the entire lock 10 by 90 degrees. This forces the body 12 into snug and secure position within the track system, thereby locking the light string or other object into place in the track system.”

In Moreland, crossbar 82 is integrally formed with slide mount 80 to form a kind of T-shaped structure, which fits into the slot of a track system. By contrast with the

invention here, the intent is to enable the structure to slide along the track by retaining crossbar 82 within the track (see Fig. 3; column 6 lines 1-15 and elsewhere).

Moreland reference does not disclose any body that “fits closely to the interior walls of the track,” the definition adopted by the examiner – rather, it discloses a body that does – and must – fit loosely in the track, coming short of the interior walls, because it slides along the track. The following figure, from Moreland’s Fig. 4, shows that the body does not “fit closely to the interior walls of the track”:



As can be seen most clearly in this figure, there is a gap to the left and the right of the ends of crossbar 82 in Moreland, which, again, is necessary to Moreland’s design. This makes it clear that crossbar 82 does not “fit closely to the interior walls of the track” – the crossbar does not fit to the walls at all; it fits within the walls.

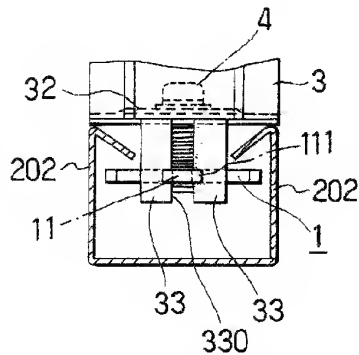
Nowhere does the final Office Action identify any place where Moreland discloses or suggests that the body (*i.e.*, crossbar 82) should fit snugly within the track. To the contrary, a snug fit would prevent the slide mount from sliding along the track. Nor is there any reason why it would be desirable to modify Moreland so as to fit the crossbar snugly within the track, because such a snug fit would render Moreland’s device unsuitable for its intended purpose (*i.e.*, to slide along the slotted track).

The second reference, Onishi, discloses a fixture for fastening to a slotted rail that includes, *inter alia*, a threaded retaining plate (*i.e.*, “fastening nut”) 1, a bracket 30/31/33, and a screw 4. Turning the screw apparently causes the retaining plate to move along the bracket, to enable tightening the fixture against the rail. The threaded retaining plate 1 is identified in the final Office Action as corresponding to the body of the lock recited in the claims.

Nowhere does Onishi disclose or suggest that the retaining plate fits snugly within a slotted rail or track. Although the fixture of Onishi can be *fastened against* the slotted rail – by tightening the screw (assuming the retaining plate is properly positioned) – that is not the same as being sized to fit snugly within the slotted rail.

Onishi specifically says, “The fastening nut 1 has ... a length (*i.e.*, the size of the longer side) ... shorter than the inner width W2 of the channel rail 2, *i.e.*, the distance

between the inner faces of the two sidewalls.” Col. 7, line 63 to col. 8, line 3. The dimension W2 is shown in Fig. 3-A. After insertion and tightening of screw 4, Onishi’s fastening nut looks like Fig. 5-B, which is as follows:



As can be seen clearly in this figure (as well as many others in Onishi), there is a gap to the left and the right of the ends of nut 1 in Onishi, which, again, is necessary to Onishi’s design. This makes it clear that nut 1 does not “fit closely to the interior walls of the track” – the crossbar does not fit to the walls at all; it fits within the walls, and Onishi teaches expressly that it should be “shorter than” the distance between the walls.

Like with Moreland, modifying Onishi to have the retaining plate fit snugly within the slotted track would be inconsistent with Onishi’s plain intent to allow the plate to slide along the slotted track. Indeed, in Onishi, such a modification would make that inventor’s whole system of tightening the fixture against the rail with a screw unnecessary. Onishi specifically teaches that a purpose of his invention is to prevent contact between the retaining plate and the rail during tightening of the screw into the retaining plate (e.g., column 2 lines 53-60), which purpose is contrary to the claimed feature of having a snug fit between the body and the rail.

For both references, Moreland and Onishi, no proper interpretation of the claim language (“the body is sized to fit snugly within the interior of the slotted track”), including the examiner’s interpretation (the body “fits closely to the interior walls of the track”), can be established that is met by the loose fittings in either reference. Neither reference discloses either “a body sized to fit snugly within the interior of the slotted track” or a body that “fits closely to the interior walls of the track.”

As a secondary point, Onishi does not disclose that the bracket and retaining plate are integrally formed. Each of claims 10 and 20 recites “a neck *formed integrally* with the body at one end and *formed integrally* with the handle at the other end” (emphasis added). Onishi discloses that the retaining plate is intended to slide along bracket portion 33. The retaining plate must slide along bracket portion 33 to allow the fixture to fasten to the slotted rail. The bracket and retaining plate cannot be integrally formed and also provide the required movement. There is no indication that the fixture

of Onishi can or should be modified to be integrally formed, because such integral formation would render the fixture of Onishi unsuitable for its intended purpose.

In view of the above, it is respectfully submitted that claims 10-29 are in condition for allowance. Reconsideration of the rejections is respectfully requested. Entry of the amendment is required and respectfully requested. Allowance of claims 10-29 at an early date is earnestly solicited.

Respectfully submitted,
KARREN MORELAND AND PHILLIP
D. MORELAND
by their attorney

Dated: December 31, 2007

/Louis J. Hoffman/
Louis J. Hoffman
Reg. No. 38,918

LOUIS J. HOFFMAN, P.C.
11811 North Tatum Boulevard
Suite 2100
Phoenix, Arizona 85028
(480) 948-3295